IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.06.2006

CORAM:

THE HON'BLE MR. JUSTICE P.SATHASIVAM

AND

THE HON'BLE MR. JUSTICE V.DHANAPALAN

WRIT APPEAL Nos.2086 & 2087 OF 2003

1. The Government of Tamil Nadu rep.
   by Commissioner and Secretary
   Housing and Urban Development
   Department, Fort St. George
   Chennai 600 009.

2. The Special Deputy Collector
   (Land Acquisition)
   Tamil Nadu Housing Board
   Ashok Nagar
   Chennai 600 083. .. Appellants in both the appeals
   (Respondents in WP.Nos.7656 and 7664/86)

vs.

P.Mohan .. Respondent in WA.No.2086/03
(Petitioner in WP.No.7656/86)

V.Jagannathan .. Respondent in WA.No.2087/03
(Petitioner in WP.No.7664/86)

Writ Appeals filed under Clause 15 of the Letters of Patent against the common order of the learned Judge Mr. Justice Y.Venkatachalam dated 02.08.1996 made in W.P.Nos.7656 and 7664 of 1986.

WP.No.7656 and 7664/86 presented under article 226 of the constitution of India to issue writ of certiorari calling for the records in the proceedings of the first respondent in G.O.Ms.No.261, Housing and Urban Development Department dated 23.10.1975 and section 4 (1) Notification published in the Tamilnadu Government Gazette dated 12.11.1975 and the consequent G.O.Ms.No.1564, Housing and Urban Development Department dated 7.11.1978 and section 6 Notification published in the Tamilnadu Government Gazette dated 10.11.1978 and quash the said proceedings in so far as they relate to the lands of the petitioner.

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1.comprised in survey no.468, patta no.72, plot no.49.A, Ambattur – Kuppam Village, Saidapet Taluk, Chengalpattu District. And

2.comprised in survey no.468/1B part patta no.72, measuing an extent of 2050 sq.ft., 4.7 cents of Ambattur – Kuppam Village, Saidapet Taluk, Chengalpattu District respectively.

For appellant : Mr.M.Dhandapani, AGP

For respondent : No appearance
in WA.2086/03

For respondent : Mr.C.S.Kannan
in WA.2087/03

COMMON JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

The above writ appeals have been filed against the common order of the learned single Judge dated 02.08.1996 in and by which the learned Judge quashed the acquisition proceedings and remitted the matter to the Special Deputy Collector (LA), Tamil Nadu Housing Board, Madras-83, for fresh disposal according to law and after giving opportunity to the writ petitioners.

2. Heard the learned Additional Government Pleader for appellants and the learned counsel for the respondent in Writ Appeal No.2087 of 2003.

3. The learned Additional Government Pleader appearing for the appellants has brought to our notice that in the absence of pointing out violation of mandatory provisions of the Land Acquisition Act or Rules, the learned single Judge committed an error in allowing both the writ petitions merely stating that "the mandatory provisions laid under the Act have not been complied with by the second respondent." He also submitted that the details furnished in the counter affidavit amply show that all the provisions of the Act, including the notice under Rule 3 and 10 of the Act have been served on the land owner and the same have been complied with. According to the learned Additional Government Pleader, the learned Judge has not adverted to the details furnished in the counter affidavit and there is no case warranting quashing the acquisition proceedings and remitted the matter to the Special Deputy Collector (LA). On the other hand learned counsel appearing for the respondent / writ petitioner in W.A.No.2087 of 2003, supported the order of the learned Judge.

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4. We have carefully considered the rival submissions and perused the materials.

5. Though it is claimed that the writ petitioners have raised several contentions, a perusal of the order of the learned Judge does not show the points raised in the writ petitions were adverted to. Likewise, though violations have been stated in the affidavit, in the counter affidavit necessary materials have been furnished by the Government and the Land Acquisition Officer highlighting the compliance of the provisions of the Act and Rules. In such circumstances and in a matter like this it is but proper to refer the points raised and the stand taken in the counter and thereafter arrive a conclusion one way or other based on the materials placed, we are satisfied that such recourse has not been followed while quashing the acquisition proceedings. On this ground, the common order of the learned Judge is liable to be interfered. Since the issues raised by both parties have not been considered, we have no other option except to remit the matter to the learned Judge for disposal. Accordingly, the common order dated 02.08.1996 made in W.P.Nos.7656 and 7664 of 1986, is set aside. Inasmuch as the writ petitions are of the year 1986, Office is directed to list the same for final hearing before the concerned learned Judge dealing with the subject within a period of two weeks. Both the writ appeals are allowed on the above terms. No costs.

kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner and Secretary, Housing and Urban Development
   Department, Government of Tamil Nadu
   Fort St. George,Chennai 600 009.

2. The Special Deputy Collector,(Land Acquisition)
   Tamil Nadu Housing Board,Ashok Nagar,Chennai 600 083.

3. The Section Officer, Writ Section,High Court, Madras.
[For Posting WP.No.7656 & 7664/86 within 2 weeks]

+ one cc to Mr.C.S.Karnan, Advocate Sr.No.25662.
+ one cc to Government Pleader Sr.No.25400.

JRG (CO)/RSM/26.6.2006

Writ Appeal Nos.2086 & 2087 of 2003

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